

**REMARKS**

The Examiner is thanked for initiation of the series of telephone interviews, in connection with the above-identified application. As initiated by the Examiner, the Examiner indicated that the subject matter of claim 2 patentably distinguished over the teachings of the applied prior art. After presenting a counter-proposal amended claim 1 for consideration by the Examiner, on May 17, 2007, Applicants then presented a further counter-proposal of an amended claim 1 to be considered by the Examiner, on May 29, 2007, as well as amended claims 4 and 5 to be considered by the Examiner; and the Examiner considered such claim 1 presented May 29, 2007, as patentably distinguishing over the teachings of the prior art applied in the prior Office Action, mailed January 19, 2007. Note the second full paragraph on page 5 of the Office Action dated July 2, 2007. At that time, the Examiner also pointed out the need to file a Terminal Disclaimer in the above-identified application.

Applicants are presently submitting a Terminal Disclaimer, and have amended their claims consistent with the proposed amended claims 1, 4 and 5 submitted to the Examiner on May 29, 2007. Specifically, Applicants have amended claim 1 to delete recitation that Y represents "phosphorus atom", and have further amended claim 1 to recite that  $R^1$  and  $R^2$  represent hydrogen atom or an alkyl group having 1-4 carbon atoms, and  $R^1$  and  $R^2$  may be bonded to each other to form a ring; claim 1 has been still further amended to recite that  $R^0$  represents a benzene ring or pyridine ring, which has 1 or 2 substituents selected from the group consisting of alkyl group having 1-2 carbon atoms, halogen atom, methoxy group, amino group, and nitro group, which may be the same or different from each other. Applicants have amended claim 4 to incorporate therein the general formula (I), including definition of the components thereof; and in light of this amendment of claim 4, Applicants have

deleted recitation of general formula (I), including components thereof, from claim 5. In connection with amendments to claim 1, note, for example, pages 10-12 of Applicants' specification.

Initially, Applicants respectfully request that the present amendments be entered. Noting, for example, the aforementioned series of telephone interviews, as well as the indication by the Examiner in the last full paragraph on page 5 of the Office Action mailed July 2, 2007, it is respectfully submitted that amendments to claim 1 clearly materially limit issues remaining in connection with the above-identified application; and, as considered by the Examiner during the aforementioned interview, it is respectfully submitted that the present amendments do not raise any new issues, including any issue of new matter. As discussed further infra, clearly present amendments to claim 4 overcome the rejection of claim 4 under the second paragraph of 35 USC 112 set forth on page 3 of the Office Action dated July 2, 2007, and thus clearly materially limit any issues remaining in connection with the above-identified application, and do not raise any new issues (including any issue of new matter). Noting that the present amendments are in response to discussions during the aforementioned telephone interview and in light of new rejections and further arguments by the Examiner in the Office Action dated July 2, 2007, it is respectfully submitted that the present amendments are clearly timely.

In view of the foregoing, it is respectfully submitted that Applicants have made the necessary showing under 37 CFR 1.116(b), such that entry of the present amendments is clearly proper.

Moreover, entry of the presently filed Terminal Disclaimer is respectfully requested, notwithstanding Finality of the Office Action dated July 2, 2007, as this Terminal Disclaimer clearly obviates the double-patenting rejection in the Office

Action dated July 2, 2007, and thus materially limits issues remaining in the above-identified application, without raising any new issues, including any issue of new matter. Present filing of this Terminal Disclaimer is timely, particularly in light of further arguments by the Examiner in the Office Action dated July 2, 2007.

The rejection of claim 4 under the second paragraph of 35 USC 112, as being incomplete, in omitting general formula (I), set forth on page 3 of the Office Action dated July 2, 2007, is noted. In view of amendment of claim 4 to incorporate general formula (I) in claim 4, it is respectfully submitted that this rejection is moot.

The rejection of claims 1, 3 and 25 under 35 USC 103(a), set forth on pages 3-5 of the Office Action dated July 2, 2007, is noted. Also to be noted is the statement by the Examiner in the second full paragraph on page 5 of the Office Action dated July 2, 2007, that in a fax received May 29, 2007, Applicants suggested a proposed amendment to claim 1 that would, if entered, be persuasive to remove this rejection over the teachings of Dmowski, et al. Applicants have amended claim 1 as in the aforementioned fax received by the Examiner on May 29, 2007. In view thereof, it is respectfully submitted that the prior art rejection on pages 3-5 of the Office Action dated Jul 2, 2007, is moot.

The obviousness-type double patenting rejections set forth on pages 6-8 of the Office Action dated July 2, 2007, are noted. In response thereto, Applicants are submitting the enclosed Terminal Disclaimer. This Terminal Disclaimer disclaims all that portion of the term of any patent to be issued on the above-identified application subsequent to the expiration date of the full statutory term of U.S. Patent No. 7,019,173. As No. 7,019,173 has a filing date at least as early as the filing date of copending Application No. 10/591,698, it is respectfully submitted that the Terminal Disclaimer with respect to U.S. Patent No. 7,019,173 also acts as a

Terminal Disclaimer with respect to any U.S. patent issuing from Application No. 10/591,698. Note that the enclosed Terminal Disclaimer includes an enforceability provision both with respect to U.S. Patent No. 7,019,173 and Application No. 10/591,698.

In view of the presently submitted Terminal Disclaimer, it is respectfully submitted that the obviousness-type double patenting rejections on pages 6-8 of the Office Action dated July 2, 2007, are moot.

The enclosed Terminal Disclaimer is being submitted so as to clearly obviate the obviousness-type double patenting rejections, in order to facilitate proceedings in connection with the above-identified application and achieve earliest possible issuance of a U.S. patent based thereon. The filing of this Terminal Disclaimer does not constitute agreement with the obviousness-type double patenting rejections, and does not constitute an admission as to the propriety thereof; and does not constitute agreement with, or an admission as to the propriety of, arguments made by the Examiner in connection with the obviousness-type double patenting rejections.

In view of the foregoing comments and amendments, entry of the present amendments and of the presently submitted Terminal Disclaimer, and reconsideration and allowance of all claims remaining in the above-identified application, are respectfully requested.

To the extent necessary, Applicants hereby petition for an extension of time under 37 CFR 1.136. Kindly charge any shortage of fees due in connection with the filing of this paper, including any extension of time fees, to the Deposit Account of

Antonelli, Terry, Stout & Kraus, LLP, Account No. 01-2135 (case 396.45117X00),  
and please credit any overpayments to such Deposit Account.

Respectfully submitted,

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Enclosure: Terminal Disclaimer

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